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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,162

Applicant(s)

ZATLOUKAL ET AL.

Examiner

FARHAD ALI

Art Unit

2446

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-14,16-20,29-31 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-14,16-20,29-31 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims:

Claims 1-3, 5-14, 16-20, 29-31 and 33 are pending in this Office Action.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-8, 10-11, 16-19, 29-30, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabe et al. (US 6,035,211), hereinafter Rabe, in view of Alperovich et al. (US 6,298,247 B1), hereinafter Alperovich.

Claim 1

Rabe teaches in a mobile client device, a method of operation comprising:

first providing, by the mobile client device, a first audio signal at a first audio volume level to a user;

determining by the mobile client device, the first audio volume level at which the mobile client device is being utilized by the user for the first audio signal; and

second providing, by the mobile client device, to the user a second audio signal at a second audio volume level, the second audio volume level being non-intrusively lower than the first audio volume level initially (Column 3 lines 13-20, "Accordingly, if the phone has been placed in the active mode (perhaps prior to actually placing a call), an

incoming call is received, the volume of the "ring" will be at the safe lower acoustic level than if amplified with the flip 12 is in the closed position" wherein in column 1 lines 15-17 an active mode is described as a "when the phone is being used to generate a call or when a call has been answered", and Column 3 lines 50-65, "The incoming signal, whether a voice communication or a "ring" signal, is received by the antenna and provided to amplifier 30 which decodes and amplifies the received signal which would normally be applied directly to speaker 18. However, in this preferred embodiment, an amplitude limiter 32 is interposed between amplifier 30 and speaker 18 and serves to limit the maximum amplitude of any signal applied to speaker 18 when the limiter is enabled by switch 22. The actual circuitry of the amplifier 30 and the amplitude limiter 32 would be obvious to those of ordinary skill in the art in view of this disclosure and is not included for the purpose of clarity").

Rabe fails to teach while providing the first and second audio signals, incrementally increasing, by the mobile client device, the second audio volume level from the initial non-intrusive lower volume level to a discernable volume level higher than the first audio volume level.

However Alperovich teaches in Column 3 Lines 39-42, "VC1402 may perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" and See figure 3, "Increase volume command or Decrease volume command" in order to provide "an automated system for adaptive volume control" (Column 4 lines 10-14).

It would have been obvious to one of ordinary skill in the art at the time of invention to create the invention of Rabe reference to include "VC1402 may perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" and See figure 3, "Increase volume command or Decrease volume command" as taught by Alperovich in order to provide "an automated system for adaptive volume control" (Column 4 lines 10-14).

Claim 2

Rabe fails to teach wherein the mobile client device is being utilized by a user for a first audio signal corresponding to music associated with output of at least one of an MP3 player and a radio.

However Alperovich teaches in Column 3 Lines 29-34, "primary audio signal 406 is the signal resulting from radio signals received by MS 400 from a remote base station system" in order to "perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" (Column 3 Lines 39-42).

It would have been obvious to one of ordinary skill in the art at the time of invention to create the invention of Rabe reference to include "primary audio signal 406 is the signal resulting from radio signals received by MS 400 from a remote base station system" as taught by Alperovich in order to "perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" (Column 3 Lines 39-42).

Claim 3

The modified Rabe reference teaches the method of claim 1, wherein said second providing comprises the mobile client device providing the second audio signal corresponding to a ring tone associated alert for at least a selected one from the group consisting of an incoming call, a received indication of a text message, a received indication of a voicemail message, a calendar alert, and a wireless mobile phone system utilities warning (Column 3 lines 50-65, "The incoming signal, whether a voice communication or a "ring" signal, is received by the antenna and provided to amplifier 30 which decodes and amplifies the received signal which would normally be applied directly to speaker 18).

Claim 5

The modified Rabe reference teaches the method of claim 1, wherein said incrementally increasing comprises incrementally increasing the second audio volume level to a pre-determined audio volume level limit above which hearing damage is likely to occur (Column 2 lines 4-7, "It is a further object of the present invention to prevent hearing discomfort and/or damage resulting from a "ring" signal being generated by the loudspeaker when the speaker is in the operable position next to the operator's ear").

Claim 6

Rabe fails to teach wherein said incrementally increasing comprises incrementally increasing the second audio volume level by a selected one of a constant increment and an increasing increment.

However Alperovich teaches in Column 3 Lines 39-42, "VC1402 may perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" and See figure 3, "Increase volume command or Decrease volume command" in order to provide "an automated system for adaptive volume control" (Column 4 lines 10-14).

It would have been obvious to one of ordinary skill in the art at the time of invention to create the invention of Rabe reference to include "VC1402 may perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" and See figure 3, "Increase volume command or Decrease volume command" as taught by Alperovich in order to provide "an automated system for adaptive volume control" (Column 4 lines 10-14).

Claim 7

Rabe fails to teach wherein said determining comprises the mobile client device determining the first audio volume level measured as an audio power level.

However Alperovich teaches measuring decibels See Figure 3, "Measurement report (db)" in order to help create a database of "data pertaining to the subscriber's preferred volume level for both receiving and transmitting signals" (Column 2 lines 60-65).

It would have been obvious to one of ordinary skill in the art at the time of invention to create the invention of Rabe reference to include "Measurement report (db)" as taught by Alperovich in order to help create a database of "data pertaining to the subscriber's preferred volume level for both receiving and transmitting signals" (Column 2 lines 60-65).

Claim 8

Rabe fails to teach wherein said determining a comprises the mobile client device determining the first audio volume level measured as at least one of volts, watts, and decibels.

However Alperovich teaches measuring decibels See Figure 3, "Measurement report (db)" in order to help create a database of "data pertaining to the subscriber's preferred volume level for both receiving and transmitting signals" (Column 2 lines 60-65).

It would have been obvious to one of ordinary skill in the art at the time of invention to create the invention of Rabe reference to include "Measurement report (db)" as taught by Alperovich in order to help create a database of "data pertaining to the subscriber's preferred volume level for both receiving and transmitting signals" (Column 2 lines 60-65).

Claim 10

Rabe teaches the wireless mobile phone comprising:

a first audio resource, the first audio resource equipped to provide a first audio signal at a first audio volume level at which the mobile phone is being utilized by a user for the first audio signal; and

a second audio resource, wherein the second audio resource is equipped to provide a second audio signal at a second audio volume level to the user, the second audio volume level being non-intrusively lower than the first audio volume level initially (Column 3 lines 13-20, "Accordingly, if the phone has been placed in the active mode (perhaps prior to actually placing a call), an incoming call is received, the volume of the "ring" will be at the safe lower acoustic level than if amplified with the flip 12 is in the closed position" wherein in column 1 lines 15-17 an active mode is described as a "when the phone is being used to generate a call or when a call has been answered", and Column 3 lines 50-65, "The incoming signal, whether a voice communication or a "ring" signal, is received by the antenna and provided to amplifier 30 which decodes and amplifies the received signal which would normally be applied directly to speaker 18. However, in this preferred embodiment, an amplitude limiter 32 is interposed between amplifier 30 and speaker 18 and serves to limit the maximum amplitude of any signal applied to speaker 18 when the limiter is enabled by switch 22. The actual circuitry of the amplifier 30 and the amplitude limiter 32 would be obvious to those of ordinary skill in the art in view of this disclosure and is not included for the purpose of clarity").

Rabe fails to teach when the wireless mobile phone provides the first and second audio signals, incrementally increase the second audio volume level from the initial non-intrusive volume level to a discernable volume level higher than the first audio volume

level, and terminating the second audio signal preventing the second audio signal from intruding on the first audio signal in response to a user action.

However Alperovich teaches in Column 3 Lines 39-42, "VC1402 may perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" and See figure 3, "Increase volume command or Decrease volume command" in order to provide "an automated system for adaptive volume control" (Column 4 lines 10-14).

It would have been obvious to one of ordinary skill in the art at the time of invention to create the invention of Rabe reference to include "VC1402 may perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" and See figure 3, "Increase volume command or Decrease volume command" as taught by Alperovich in order to provide "an automated system for adaptive volume control" (Column 4 lines 10-14).

Claim 11

Rabe fails to teach wherein the first audio resource comprises at least one of an MP3 player and a radio

However Alperovich teaches in Column 3 Lines 29-34, "primary audio signal 406 is the signal resulting from radio signals received by MS 400 from a remote base station system" in order to "perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" (Column 3 Lines 39-42).

It would have been obvious to one of ordinary skill in the art at the time of invention to create the invention of Rabe reference to include "primary audio signal 406 is the signal resulting from radio signals received by MS 400 from a remote base station system" as taught by Alperovich in order to "perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" (Column 3 Lines 39-42).

Claim 16

The modified Rabe reference teaches wireless mobile phone of claim 10, wherein the second audio resource is equipped to incrementally increase the second audio volume level to a pre-determined audio volume level limit above which hearing damage is likely to occur (Column 2 lines 4-7, "It is a further object of the present invention to prevent hearing discomfort and/or damage resulting from a "ring" signal being generated by the loudspeaker when the speaker is in the operable position next to the operator's ear").

Claim 17

Rabe fails to teach wherein second audio resource is equipped to incrementally increase the second audio volume level by a selected one of a constant increment and an increasing increment.

However Alperovich teaches in Column 3 Lines 39-42, "VC1402 may perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" and See figure 3, "Increase volume command or Decrease volume command" in order to provide "an automated system for adaptive volume control" (Column 4 lines 10-14).

It would have been obvious to one of ordinary skill in the art at the time of invention to create the invention of Rabe reference to include "VC1402 may perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" and See figure 3, "Increase volume command or Decrease volume command" as taught by Alperovich in order to provide "an automated system for adaptive volume control" (Column 4 lines 10-14).

Claim 18

Rabe fails to teach the wireless mobile phone of claim 10, wherein the first and second audio volume levels are measured as audio power levels.

However Alperovich teaches measuring decibels See Figure 3, "Measurement report (db)" in order to help create a database of "data pertaining to the subscriber's preferred volume level for both receiving and transmitting signals" (Column 2 lines 60-65).

It would have been obvious to one of ordinary skill in the art at the time of invention to create the invention of Rabe reference to include "Measurement report (db)" as taught by Alperovich in order to help create a database of "data pertaining to the

subscriber's preferred volume level for both receiving and transmitting signals" (Column 2 lines 60-65).

Claim 19

Rabe fails to teach the wireless mobile phone of claim 18, wherein the audio power levels are measured in at least one of volts, watts, and decibels.

However Alperovich teaches measuring decibels See Figure 3, "Measurement report (db)" in order to help create a database of "data pertaining to the subscriber's preferred volume level for both receiving and transmitting signals" (Column 2 lines 60-65).

It would have been obvious to one of ordinary skill in the art at the time of invention to create the invention of Rabe reference to include "Measurement report (db)" as taught by Alperovich in order to help create a database of "data pertaining to the subscriber's preferred volume level for both receiving and transmitting signals" (Column 2 lines 60-65).

Claim 29

Rabe teaches the mobile client device comprising:

first provide a primary audio signal at a first audio volume to a user,
determine the primary audio volume level at which the mobile client device is being utilized by the user for the primary audio signal,
second provide a secondary audio signal at a second audio volume level to the user, the second audio volume level non-intrusively lower than the first audio volume

level initially (Column 3 lines 13-20, "Accordingly, if the phone has been placed in the active mode (perhaps prior to actually placing a call), an incoming call is received, the volume of the "ring" will be at the safe lower acoustic level than if amplified with the flip 12 is in the closed position" wherein in column 1 lines 15-17 an active mode is described as a "when the phone is being used to generate a call or when a call has been answered", and Column 3 lines 50-65, "The incoming signal, whether a voice communication or a "ring" signal, is received by the antenna and provided to amplifier 30 which decodes and amplifies the received signal which would normally be applied directly to speaker 18. However, in this preferred embodiment, an amplitude limiter 32 is interposed between amplifier 30 and speaker 18 and serves to limit the maximum amplitude of any signal applied to speaker 18 when the limiter is enabled by switch 22. The actual circuitry of the amplifier 30 and the amplitude limiter 32 would be obvious to those of ordinary skill in the art in view of this disclosure and is not included for the purpose of clarity").

Rabe fails to teach incrementally increase the secondary audio volume level from the initial non-intrusive volume level to a discernable volume level higher than the first audio volume level; and a storage medium having stored therein a plurality of programming instructions and a processor coupled to the storage medium to execute the programming instructions.

However Alperovich teaches in Column 2 lines 50-56, "ENMD 102 may also be communicably coupled to a memory module (MM) 108, such as a SIM or smart card, via an interface 110. MM 108 is a device within MS 100 for storing subscriber-related

information, including the subscriber's volume control data, and associated software supporting the volume control application" and in Column 3 Lines 39-42, "VC1402 may perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" and See figure 3, "Increase volume command or Decrease volume command" in order to provide "an automated system for adaptive volume control" (Column 4 lines 10-14).

It would have been obvious to one of ordinary skill in the art at the time of invention to create the invention of Rabe reference to include "ENMD 102 may also be communicably coupled to a memory module (MM) 108, such as a SIM or smart card, via an interface 110. MM 108 is a device within MS 100 for storing subscriber-related information, including the subscriber's volume control data, and associated software supporting the volume control application" and "VC1402 may perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" and "Increase volume command or Decrease volume command" as taught by Alperovich in order to provide "an automated system for adaptive volume control" (Column 4 lines 10-14).

Claim 30

Rabe fails to teach wherein the first audio signal corresponds to music associated with output of at least one of an MP3 player and a radio.

However Alperovich teaches in Column 3 Lines 29-34, "primary audio signal 406 is the signal resulting from radio signals received by MS 400 from a remote base station

system" in order to "perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" (Column 3 Lines 39-42).

It would have been obvious to one of ordinary skill in the art at the time of invention to create the invention of Rabe reference to include "primary audio signal 406 is the signal resulting from radio signals received by MS 400 from a remote base station system" as taught by Alperovich in order to "perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" (Column 3 Lines 39-42).

Claim 33

Rabe fails to teach the mobile client device of claim 29, wherein the primary audio volume level is measured as an audio power level (See Figure 3, "Measurement report (db)").

However Alperovich teaches measuring decibels See Figure 3, "Measurement report (db)" in order to help create a database of "data pertaining to the subscriber's preferred volume level for both receiving and transmitting signals" (Column 2 lines 60-65).

It would have been obvious to one of ordinary skill in the art at the time of invention to create the invention of Rabe reference to include "Measurement report (db)" as taught by Alperovich in order to help create a database of "data pertaining to the

subscriber's preferred volume level for both receiving and transmitting signals" (Column 2 lines 60-65).

3. Claims 9, 12-14, 20, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabe, in view of Alperovich, and further in view of Alberth, Jr. et al. (US 6,351,653 B1) hereinafter Alberth.

Claim 9

The modified Rabe reference does not teach wherein said first and second providing comprises the mobile client device mixing said first and second audio signals.

However Alberth teaches in Column 7 lines 13-15 "the radio downlink signal and the cellular downlink signal are combined into the combined audio signal" in order to convey the combined audio signal to the speaker (Column 7 lines 15-16).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the invention of the modified Rabe reference to include "the radio downlink signal and the cellular downlink signal are combined into the combined audio signal" as taught by Alberth in order to convey the combined audio signal to the speaker (Column 7 lines 15-16).

Claim 12

The modified Rabe reference does not teach wherein the second audio resource comprises an audio resource equipped to receive a delivery of a message alert to the user.

However Alberth teaches in Column 7-8 Lines 62-2, "FIG. 6 is a flowchart for using alternate alarms when a page is detected. In Step 610, the cellular telephone detects a page signal from the radio 120. In Step, 620, the control circuitry 205 determines whether the cellular telephone 110 has a cellular phone call. In Step 630, if there is a cellular call, a first alarm is activated. The first alarm may be selected by the user and may alert the user with tones, vibrations, lights, and other means" in order to "compensate for the close proximity of the cellular telephone 110 to the user" (Column 8 lines 3-4).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the invention of the modified Rabe reference to include "a flowchart for using alternate alarms when a page is detected. In Step 610, the cellular telephone detects a page signal from the radio 120. In Step, 620, the control circuitry 205 determines whether the cellular telephone 110 has a cellular phone call. In Step 630, if there is a cellular call, a first alarm is activated. The first alarm may be selected by the user and may alert the user with tones, vibrations, lights, and other means" as taught by Alberth in order to "compensate for the close proximity of the cellular telephone 110 to the user" (Column 8 lines 3-4).

Claim 13

The modified Rabe reference does not teach wherein the audio resource equipped to receive a delivery of a message alert comprises a ring tone generator.

However Alberth teaches in Column 7-8 Lines 62-2, "FIG. 6 is a flowchart for using alternate alarms when a page is detected. In Step 610, the cellular telephone detects a page signal from the radio 120. In Step, 620, the control circuitry 205 determines whether the cellular telephone 110 has a cellular phone call. In Step 630, if there is a cellular call, a first alarm is activated. The first alarm may be selected by the user and may alert the user with tones, vibrations, lights, and other means" in order to "compensate for the close proximity of the cellular telephone 110 to the user" (Column 8 lines 3-4).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the invention of the modified Rabe reference to include "a flowchart for using alternate alarms when a page is detected. In Step 610, the cellular telephone detects a page signal from the radio 120. In Step, 620, the control circuitry 205 determines whether the cellular telephone 110 has a cellular phone call. In Step 630, if there is a cellular call, a first alarm is activated. The first alarm may be selected by the user and may alert the user with tones, vibrations, lights, and other means" as taught by Alberth in order to "compensate for the close proximity of the cellular telephone 110 to the user" (Column 8 lines 3-4).

Claim 14

The modified Rabe reference does not teach wherein the audio resource is equipped to receive a delivery of a message alert for at least a selected one from the group consisting of an incoming call, a received indication of a text message, a received

indication of a voicemail message, a calendar alert, and a wireless mobile phone system utilities warning.

However Alberth teaches in Column 7-8 Lines 62-2, "FIG. 6 is a flowchart for using alternate alarms when a page is detected. In Step 610, the cellular telephone detects a page signal from the radio 120. In Step, 620, the control circuitry 205 determines whether the cellular telephone 110 has a cellular phone call. In Step 630, if there is a cellular call, a first alarm is activated. The first alarm may be selected by the user and may alert the user with tones, vibrations, lights, and other means" in order to "compensate for the close proximity of the cellular telephone 110 to the user" (Column 8 lines 3-4).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the invention of the modified Rabe reference to include "a flowchart for using alternate alarms when a page is detected. In Step 610, the cellular telephone detects a page signal from the radio 120. In Step, 620, the control circuitry 205 determines whether the cellular telephone 110 has a cellular phone call. In Step 630, if there is a cellular call, a first alarm is activated. The first alarm may be selected by the user and may alert the user with tones, vibrations, lights, and other means" as taught by Alberth in order to "compensate for the close proximity of the cellular telephone 110 to the user" (Column 8 lines 3-4).

Claim 20

The modified Rabe reference does not teach further comprising a mixer, the mixer equipped to mix the first and second audio signals.

However Alberth teaches in Column 7 lines 13-15 "the radio downlink signal and the cellular downlink signal are combined into the combined audio signal" in order to convey the combined audio signal to the speaker (Column 7 lines 15-16).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the invention of the modified Rabe reference to include "the radio downlink signal and the cellular downlink signal are combined into the combined audio signal" as taught by Alberth in order to convey the combined audio signal to the speaker (Column 7 lines 15-16).

Claim 31

Rabe fails to teach terminate the secondary audio signal preventing the secondary audio signal from intruding on the primary audio signal in response to a user action.

However Alperovich teaches in Column 3 Lines 39-42, "VC1402 may perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" and See figure 3, "Increase volume command or Decrease volume command" in order to provide "an automated system for adaptive volume control" (Column 4 lines 10-14).

It would have been obvious to one of ordinary skill in the art at the time of invention to create the invention of Rabe reference to include "VC1402 may perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" and See figure 3, "Increase volume command or Decrease volume command" as taught by Alperovich in order to provide "an automated system for adaptive volume control" (Column 4 lines 10-14).

The modified Rabe reference does not teach wherein the second audio signal corresponds to a ring tone associated alert for at least a selected one from the group consisting of an incoming call, a received indication of a text message, a received indication of a voicemail message, a calendar alert, and a wireless mobile phone system utilities warning.

However Alberth teaches in Column 7-8 Lines 62-2, "FIG. 6 is a flowchart for using alternate alarms when a page is detected. In Step 610, the cellular telephone detects a page signal from the radio 120. In Step, 620, the control circuitry 205 determines whether the cellular telephone 110 has a cellular phone call. In Step 630, if there is a cellular call, a first alarm is activated. The first alarm may be selected by the user and may alert the user with tones, vibrations, lights, and other means" in order to "compensate for the close proximity of the cellular telephone 110 to the user" (Column 8 lines 3-4).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the invention of the modified Rabe reference to include "a flowchart for using alternate alarms when a page is detected. In Step 610, the cellular telephone

detects a page signal from the radio 120. In Step, 620, the control circuitry 205 determines whether the cellular telephone 110 has a cellular phone call. In Step 630, if there is a cellular call, a first alarm is activated. The first alarm may be selected by the user and may alert the user with tones, vibrations, lights, and other means" as taught by Alberth in order to "compensate for the close proximity of the cellular telephone 110 to the user" (Column 8 lines 3-4).

Response to Arguments

4. Applicant's arguments filed 03/16/09 have been fully considered but they are not persuasive.

The applicant has argued that Rabe does not teach "determining by the mobile client device, the first audio volume level at which the mobile client device is being utilized by the user for the first audio signal", nor does Rabe teach "the second audio volume level being non- intrusively lower than the first audio volume level initially". The examiner disagrees. The examiner asserts that "determining by the mobile client device, the first audio volume level at which the mobile client device is being utilized by the user for the first audio signal" reads upon Rabe's teachings wherein a determination is made whether or not the phone is in the active mode, which is directly related to the volume level or amplification at which the mobile client device is being utilized by the user.

The applicant has further argued that Alperovich does not teach "while providing the first and second audio signals, incrementally increasing, by the mobile client device, the second audio volume level from the initial non-intrusive lower volume level to a discernable volume level higher than the first audio volume level." The examiner disagrees. Alperovich teaches "perform volume control function by performing selected filter gain on primary audio signal 406 based on secondary audio signal 408" and See figure 3, "Increase volume command or Decrease volume command" in order to provide "an automated system for adaptive volume control" (Column 4 lines 10-14). Alperovich additionally teaches that the "gain of the desired signal and the gain of the undesired noise are adjusted according to the user's preferences". The examiner asserts that the applicants claims read upon the case wherein the user has selected a gain for the desired signal and not selected any gain (gain of zero) for the undesired signal.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FARHAD ALI whose telephone number is (571)270-1920. The examiner can normally be reached on Monday thru Friday, 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey C. Pwu can be reached on (571) 272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Farhad Ali/
Examiner, Art Unit 2446

/Jeffrey Pwu/
Supervisory Patent Examiner, Art Unit 2446

